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| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
|--|-------------|----------------------|---------------------|------------------|
| 10/035,007 | 12/28/2001 | Michael Boyd | 1-72609 | 1093 |
| 27377 | 7590 | 10/27/2003 | EXAMINER | |
| MACMILLAN, SOBANSKI & TODD, LLC ONE MARITIME PLAZA-FOURTH FLOOR 720 WATER STREET TOLEDO, OH 43604 | | | VU, STEPHEN A | |
| | | | ART UNIT | PAPER NUMBER |
| | | | 3636 | |

DATE MAILED: 10/27/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/035,007

Applicant(s)

BOYD ET AL.

Examiner

Stephen A Vu

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 07 August 2003.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-22 is/are pending in the application.
- 4a) Of the above claim(s) 10-15 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-9 and 16-22 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on _____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449) Paper No(s) 4.
- 4) ☐ Interview Summary (PTO-413) Paper No(s). _____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other:

DETAILED ACTION

Election/Restrictions

Claims 10-15 have been withdrawn from further consideration pursuant to 37 CFR 1.142(b) as being drawn to a nonelected invention, there being no allowable generic or linking claim. Election was made **without** traverse in Paper No. 7.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1-5,9, and 19-20 are rejected under 35 U.S.C. 102(b) as being anticipated by Chang.

Chang shows a vehicle seat assembly comprising a seat back (205), a seat bottom (203) attached to the seat back, and a mounting assembly (125).

With claim 2, the seat back is attached to the seat bottom via a recliner mechanism (210).

With claim 3, the mounting assembly has a receiving portion, a lower portion mounted on the vehicle floor, and a second recliner mechanism.

With claim 4, the seat back is attached to the seat bottom via another recliner mechanism.

With claims 5 and 20, a seat track mechanism (119) is mounted on the vehicle floor and attached to the mounting assembly.

With claim 9, a locking mechanism is provided.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

The factual inquiries set forth in *Graham v. John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:

1. Determining the scope and contents of the prior art.
2. Ascertaining the differences between the prior art and the claims at issue.
3. Resolving the level of ordinary skill in the pertinent art.
4. Considering objective evidence present in the application indicating obviousness or nonobviousness.

Claims 6-7 and 21-22 are rejected under 35 U.S.C. 103(a) as being unpatentable over Chang in view of Abu-Isa et al.

Chang discloses the claimed invention except for the seat assembly to have an elastomeric material stretched between the outer perimeter of the seat bottom and seat back. Abu-Isa et al teach a seat comprising the seat bottom and seat back having an elastomeric material between the outer perimeters. It would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the seat bottom

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and seat back of Chang's invention to have an elastomeric material, in order to provide absorption of impacts and vibrations and deform to fit the shape of the body of the user.

Claim 8 is rejected under 35 U.S.C. 103(a) as being unpatentable over Chang in view of Rivard et al.

Chang discloses the claimed invention except for the seat assembly to include a movable lumbar support. Rivard et al teaches a movable lumbar support (22). It would have been obvious to one of ordinary skill in the art at the time the invention was made to use a movable lumbar support of Rivard et al's invention with the Chang's seat assembly, in order to comfortably support the lower back of a person.

Claims 16-18 are rejected under 35 U.S.C. 103(a) as being unpatentable over Chang in view of Nishiyama.

Chang discloses the claimed invention except for the seat portion to have side bolsters. Nishiyama teaches a seat frame comprising of side bolsters (14b). It would have been obvious to one of ordinary skill in the art at the time the invention was made to employ side bolsters of Nishiyama's invention to the seating portion of Chang's seating assembly, in order to retain the seat bottom within the framework of the mounting assembly.

Conclusion

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Umezawa et al, Grilliot et al, Akizuki et al, Mitschelen et al, Hall et al, Aebischer et al, and Glance are cited as showing similar types of seating assembly.

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Any inquiry concerning this communication or earlier communications from the examiner should be directed to Stephen A Vu whose telephone number is 703-308-1378. The examiner can normally be reached on M-F from 8:30 am to 5:00 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Peter M Cuomo can be reached on 703-308-0827. The fax phone number for the organization where this application or proceeding is assigned is (703) 872-9306.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-308-1113.



Stephen Vu
October 19, 2003


Peter M. Cuomo
Supervisory Patent Examiner
Technology Center 3600